

**VIRGINIA BOARD OF NURSING
COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE MINUTES
JUNE 16, 2010**

TIME AND PLACE: The meeting of the Committee of the Joint Boards of Nursing and Medicine was convened at 9:38 A.M., in Board Room 2, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 201, Richmond, Virginia.

MEMBERS PRESENT: Patricia M. Selig, R.N., F.N.P., Ph.D., Chairperson
Sandra Anderson Bell, M.D. (arrived at 10:15 a.m.)
Peregrin C. Francisco, R.N., M.S.A.
Joyce A. Hahn, Ph.D., APRN, NEA-BC
Jennifer Lee, M.D. (arrived at 9:50 a.m.)
Wayne Reynolds, D.O.

ADVISORY COMMITTEE MEMBERS PRESENT: Peter Boling, M.D. (arrived at 9:50 a.m.)
Mary Duggan, M.S., ACNP-BC
Barbara Kirkland, R.N., L.N.P.
Tom Watters, R.N., C.R.N.A.
Chip Williams, M.D.

ADVISORY COMMITTEE MEMBERS ABSENT: Jennifer L. Bennett, M.D.
Carola Bruflat, M.S.N., WHNP/FNP
Steven B. Powers, M.D.

STAFF PRESENT: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director
Board of Nursing
Gloria D. Mitchell, R.N., M.S.N., M.B.A., Deputy Executive Director
Board of Nursing
Charlotte Creed, Licensing Manager, Board of Nursing
Donna M. Lee, Senior Discipline Specialist, Board of Nursing

OTHERS PRESENT: Dianne Reynolds-Cane, Director, Department of Health Professions
Arne Owens, Chief Director, Department of Health Professions
Howard Casway, Senior Assistant Attorney General
Elaine Yeatts, Policy Analyst, Department of Health Professions
William Harp, M.D., Executive Director, Board of Medicine
Tina Jadhav, Intern with the Attorney General's Office
Bryan Ragland, Intern with the Attorney General's Office
Tyler Cox, Hancock, Daniel, Johnson and Nagel, P.C.
W. Scott Johnson, Hancock, Daniel, Johnson and Nagel, P.C.
Michele Satterlund, Virginia Council of Nurse Practitioners

ESTABLISHMENT OF
A QUORUM:

With four (4) members of the Committee present, a quorum was established.

ORDERING OF
AGENDA:

The agenda was reviewed and ordered.

PUBLIC COMMENT:

No public comments were received at this time.

DISPOSITION OF
MINUTES:

Ms. Douglas stated that the minutes were provided for review and historical perspective as the last meeting was several months ago.

OLD BUSINESS:

Vacant Advisory Committee Positions:

Ms. Douglas informed the Committee that there are currently four vacant positions available on the Advisory Committee. The names of any prospective candidates can be recommended to Ms. Douglas for presentation to the Committee for appointment.

NEW BUSINESS:

Board of Nursing Staff Update:

- Licensure Trends – Ms. Douglas reviewed monthly tracking log for fiscal year 2009, which showed that at the end of April there was a total of 5,991 nurse practitioners, 442 clinical nurse specialist, and 19 nurse practitioners reinstated. The Board reviews approximately 300 practice agreements a month for nurse practitioners. There has been an increase in the number of people applying for nurse practitioner licenses from out-of-state programs. There are nine nurse practitioner education programs in Virginia. The Board of Nursing does not oversee nurse practitioner education programs. The Workforce Data Center is developing a workforce survey to find out where nurse practitioners are practicing, educational background, and other statistical data that will assist in workforce development activities.
- Frequently Asked Questions – Ms. Douglas stated that nurse practitioners confuse practice agreements and protocols. Protocol is defined in the Regulations and there is no requirement that it has to be submitted to the Board. A practice agreement is related to prescriptive authority and is required to be on file at the Board and has to be signed by the nurse practitioner and the supervising physician. One percent of protocols can be reviewed by the Board and investigators may review protocols and practice agreements for disciplinary cases.

Final - Approved

Charlotte Creed, Licensing Manager, informed the Committee of her review process when she receives practice agreements and the common errors that occur on practice agreements when they are submitted for approval by the Board.

- Discipline Case Trends – Ms. Mitchell provided the Committee with several graphs that showed statistics for the disciplinary case categories that are submitted against nurse practitioners; case outcomes, and case proceedings for fiscal year 2009. She stated that mandatory suspensions are actions taken by the Department of Health Professions and not by the individual boards. She further stated that impairment and practice issues are the type of cases that go forward to informal and formal proceedings.

Dr. Boling recommended that statistics for standard of care issues brought against nurse practitioners as compared to physicians be conducted, and that the findings be reported to the Committee at the next scheduled meeting.

National Council of State Boards of Nursing (NCSBN) Advanced Practice Update:

Ms. Mitchell informed the Committee that Jennifer Hayden, Research Associate for the National Council of State Boards of Nursing, is collecting data and researching advanced practice nursing safety according to level of practice over a ten year period, beginning with the year 2000 and ending in 2009. Ms. Hayden is collecting data pertaining to disciplinary actions taken by the Boards of Nursing in every state and reviewing the final orders in each case to determine reasons for discipline. Her focus is on unsafe practice issues. The results will be reported to the National Council's Board of Directors in September and the findings will be published in the Journal of Nursing Regulation.

Consideration of Nurse Practitioners Signing Death Certificates:

Ms. Douglas stated to the Committee that the Board of Nursing receives calls from nurse practitioners asking if they can sign death certificates. The advice in the past has been that nurse practitioners can sign death certificates if it is included in their protocol with the collaborating physician.

Mr. Casway advised the Committee that if included in the protocol for nurse practitioners, § 54.1-2957.02 could be construed to allow nurse practitioners to sign on behalf of physicians. He further stated that nothing in Chapter 29 that deals with the practice of nurse practitioners allows for a nurse practitioner to sign death certificates. The Health Code, § 32.1-263 states that a physician should sign death certificates. § 54.1-2972 for

determination of death, nurses or physician assistants have authority to pronounce death under certain circumstances. The Committee can make a determination that if it is in a nurse practitioner's protocol, then they can sign death certificates.

Ms. Yeatts informed the Committee that the question of signing death certificates was put to the Department of Health, Vital Records, and they stated that they would not accept a death certificate if it were signed by a nurse practitioner and that it was not in the scope of practice for a nurse practitioner.

Mr. Casway reiterated that there is no express provision that allows for nurse practitioners to sign death certificates. Dr. Boling suggested that several areas in the Code should be revised to reflect the actual practice of nurse practitioners as it pertains to death certificates. Dr. Harp questioned whether there would be problems with other states as it involves the practice of nurse practitioners. The Committee was informed that some states allow it, but the Code doesn't prohibit or allow the practice and there may be legislation acted upon in the future. Ms. Douglas told the Committee that they should make a decision as it involves the practice for nurse practitioners. The Committee agreed that there should be some guidance given to nurse practitioners about signing death certificates.

Dr. Lee moved that the Committee recommend that nurse practitioners be authorized to declare death and to sign death certificates as long as it is included in their protocol with the collaborating/supervising physician and consistent with state law.

The motion was seconded and carried unanimously.

Ms. Douglas stated that the recommendation would be presented to the Board of Nursing and the Board of Medicine at their next board meetings.

Law Pertaining to Unauthorized Disclosure of Prescription Monitoring Program (PMP) Information:

Ms. Yeatts reviewed with the Committee the proposed language for § 54.1-2525(C) as it pertains to nurse practitioners and the unauthorized use of confidential information received from the Prescription Monitoring Program.

Dr. Reynolds moved to adopt exempt amendments to Regulations Governing Licensed Nurse Practitioners to provide grounds for disciplinary action for unauthorized use or disclosure of confidential information received from the Prescription Monitoring Program, as provided for by law in Virginia Code § 54.1-2525(C).

The motion was seconded and carried unanimously.

Meeting Dates:

The next meeting date will be Wednesday, October 13, 2010.

RECESS:

The business meeting concluded at 10:50 a.m. The Committee recessed until 11:15 a.m. for consideration of an agency subordinate recommendation and consent order.

RECONVENTION:

The Committee reconvened at 11:17 a.m.

Consideration of Agency Subordinate Recommendation and Consent Order:

CLOSED MEETING:

Ms. Francisco moved that the Committee of the Joint Boards of Nursing and Medicine convene a closed meeting pursuant to §2.2-3711(A)(27) of the Code of Virginia at 11:18 a.m., for the purpose of consideration of an agency subordinate recommendation. Additionally, Ms. Francisco moved that Ms. Douglas, Ms. Mitchell, Mr. Casway, Ms. Lee, Ms. Jadhav and Mr. Ragland attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations.

The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 11:22 a.m.

Ms. Francisco moved that the Committee of the Joint Boards of Nursing and Medicine certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

Robyn Saavedra, R.N., L.N.P. – 0001-158045; 0024-167256

Ms. Saavedra did not appear.

Dr. Reynolds moved that the Committee of the Joint Boards of Nursing and Medicine accept the recommended decision of the agency subordinate to reprimand Ms. Saavedra in her practice as a nurse practitioner and to place her on indefinite probation subject to certain terms and conditions for not less than two years of actual nurse practitioner practice with prescriptive authority.

The motion was seconded and carried unanimously.

Sharon Kendall, R.N., L.N.P. – 0024-168331

Ms. Kendall did not appear.

Dr. Reynolds moved that the Committee of the Joint Boards of Nursing and Medicine accept the consent order for the indefinite suspension of Ms. Kendall's nurse practitioner license, with said suspension stayed upon proof that Ms. Kendall has entered into the Virginia Health Practitioners' Monitoring Program or a comparable South Carolina program, within 60 days of the date of entry of this Order.

The motion was seconded and carried unanimously.

ADJOURNMENT:

The meeting adjourned at 11:25 A.M.

Jay P. Douglas, R.N., M.S.M., C.S.A.C.
Executive Director, Board of Nursing